

HB 207

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CHAMBER ACTION

1 The Criminal Justice Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to dwelling and structure burglaries
7 during a declared state of emergency; amending s. 810.02,
8 F.S.; providing that it is a felony of the first degree to
9 commit a burglary of a dwelling during a state of
10 emergency; providing that it is a felony of the second
11 degree to commit a burglary of a structure during a state
12 of emergency and, in the course of that burglary, commit
13 the crime of grand theft from that structure in an amount
14 of \$300 or more; providing penalties; providing that a
15 person who is arrested for any such felony shall not be
16 released until the person appears before a committing
17 magistrate at a first appearance hearing; amending s.
18 921.0022, F.S.; ranking the offense severity level of such
19 felonies in the Criminal Punishment Code; providing an
20 effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsection (5) is added to section 810.02, Florida Statutes, to read:

810.02 Burglary.--

(5)(a) Burglary of a dwelling during the time of a state of emergency, declared by executive order or proclamation of the Governor under chapter 252, within the area covered by such executive order or proclamation is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Burglary of a structure during the time of a state of emergency, declared by executive order or proclamation of the Governor under chapter 252, within the area covered by such executive order or proclamation is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the course of that burglary, the offender also commits the offense of grand theft from that structure of property valued at \$300 or more.

(c) A person arrested for a violation of paragraph (a) or paragraph (b) shall not be released until the person appears before a committing magistrate at a first appearance hearing.

Section 2. Paragraphs (g) and (h) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.--

(3) OFFENSE SEVERITY RANKING CHART

| Florida Statute | Felony Degree | Description |
|-----------------|---------------|-------------|
|-----------------|---------------|-------------|

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(g) LEVEL 7

50

316.027(1)(b)

2nd

Accident involving
death, failure to
stop; leaving scene.

51

316.193(3)(c)2.

3rd

DUI resulting in
serious bodily
injury.

52

316.1935(3)(b)

1st

Causing serious
bodily injury or
death to another
person; driving at
high speed or with
wanton disregard for
safety while fleeing
or attempting to
elude law
enforcement officer
who is in a patrol
vehicle with siren
and lights
activated.

53

327.35(3)(c)2.

3rd

Vessel BUI resulting
in serious bodily

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injury.

54

402.319(2)

2nd

Misrepresentation
and negligence or
intentional act
resulting in great
bodily harm,
permanent
disfiguration,
permanent
disability, or
death.

55

409.920(2)

3rd

Medicaid provider
fraud.

56

456.065(2)

3rd

Practicing a health
care profession
without a license.

57

456.065(2)

2nd

Practicing a health
care profession
without a license
which results in
serious bodily
injury.

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| 59 | 458.327(1) | 3rd | Practicing medicine without a license. |
| 60 | 459.013(1) | 3rd | Practicing osteopathic medicine without a license. |
| 61 | 460.411(1) | 3rd | Practicing chiropractic medicine without a license. |
| 62 | 461.012(1) | 3rd | Practicing podiatric medicine without a license. |
| 63 | 462.17 | 3rd | Practicing naturopathy without a license. |
| 64 | 463.015(1) | 3rd | Practicing optometry without a license. |
| 65 | 464.016(1) | 3rd | Practicing nursing without a license. |
| | 465.015(2) | 3rd | Practicing pharmacy |

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| | | | without a license. |
| 66 | 466.026(1) | 3rd | Practicing dentistry or dental hygiene without a license. |
| 67 | 467.201 | 3rd | Practicing midwifery without a license. |
| 68 | 468.366 | 3rd | Delivering respiratory care services without a license. |
| 69 | 483.828(1) | 3rd | Practicing as clinical laboratory personnel without a license. |
| 70 | 483.901(9) | 3rd | Practicing medical physics without a license. |
| 71 | 484.013(1)(c) | 3rd | Preparing or dispensing optical devices without a prescription. |
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| 73 | 484.053 | 3rd | Dispensing hearing aids without a license. |
| 74 | 494.0018(2) | 1st | Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims. |
| 75 | 560.123(8)(b)1. | 3rd | Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter. |
| | 560.125(5)(a) | 3rd | Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but |

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| 76 | | | less than \$20,000. |
| | 655.50(10)(b)1. | 3rd | Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution. |
| 77 | | | |
| | 782.051(3) | 2nd | Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony. |
| 78 | | | |
| | 782.07(1) | 2nd | Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter). |
| 79 | | | |
| | 782.071 | 2nd | Killing of human being or viable |

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| | | | fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide). |
| 80 | 782.072 | 2nd | Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide). |
| 81 | 784.045(1)(a)1. | 2nd | Aggravated battery; intentionally causing great bodily harm or disfigurement. |
| 82 | 784.045(1)(a)2. | 2nd | Aggravated battery; using deadly weapon. |
| 83 | 784.045(1)(b) | 2nd | Aggravated battery; perpetrator aware victim pregnant. |
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| 85 | 784.048(4) | 3rd | Aggravated stalking; violation of injunction or court order. |
| 86 | 784.048(7) | 3rd | Aggravated stalking; violation of court order. |
| 87 | 784.07(2)(d) | 1st | Aggravated battery on law enforcement officer. |
| 88 | 784.074(1)(a) | 1st | Aggravated battery on sexually violent predators facility staff. |
| 89 | 784.08(2)(a) | 1st | Aggravated battery on a person 65 years of age or older. |
| 90 | 784.081(1) | 1st | Aggravated battery on specified official or employee. |

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| 91 | 784.082(1) | 1st | Aggravated battery by detained person on visitor or other detainee. |
| 92 | 784.083(1) | 1st | Aggravated battery on code inspector. |
| 93 | 790.07(4) | 1st | Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2). |
| 94 | 790.16(1) | 1st | Discharge of a machine gun under specified circumstances. |
| 95 | 790.165(2) | 2nd | Manufacture, sell, possess, or deliver hoax bomb. |
| | 790.165(3) | 2nd | Possessing, displaying, or threatening to use any hoax bomb while |

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| 96 | | | committing or attempting to commit a felony. |
| | 790.166(3) | 2nd | Possessing, selling, using, or attempting to use a hoax weapon of mass destruction. |
| 97 | | | |
| | 790.166(4) | 2nd | Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony. |
| 98 | | | |
| | 796.03 | 2nd | Procuring any person under 16 years for prostitution. |
| 99 | | | |
| | 800.04(5)(c)1. | 2nd | Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years. |
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| 101 | 800.04(5)(c)2. | 2nd | Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older. |
| 102 | 806.01(2) | 2nd | Maliciously damage structure by fire or explosive. |
| 103 | 810.02(3)(a) | 2nd | Burglary of occupied dwelling; unarmed; no assault or battery. |
| 104 | 810.02(3)(b) | 2nd | Burglary of unoccupied dwelling; unarmed; no assault or battery. |
| 105 | 810.02(3)(d) | 2nd | Burglary of occupied conveyance; unarmed; no assault or battery. |
| | <u>810.02(5)(b)</u> | <u>2nd</u> | <u>Burglary of a</u> |

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| | | | <u>structure during</u> <u>time of a declared</u> <u>state of emergency</u> <u>and grand theft of</u> <u>property valued at</u> <u>\$300 or more.</u> |
| 106 | 812.014(2)(a)1. | 1st | Property stolen, valued at \$100,000 or more; property stolen while causing other property damage; 1st degree grand theft. |
| 107 | 812.014(2)(b)2. | 2nd | Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree. |
| 108 | 812.014(2)(b)3. | 2nd | Property stolen, emergency medical equipment; 2nd degree grand theft. |
| 109 | 812.0145(2)(a) | 1st | Theft from person 65 years of age or |

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| 110 | 812.019(2) | 1st | older; \$50,000 or more. |
| 111 | 812.131(2)(a) | 2nd | Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property. |
| 112 | 812.133(2)(b) | 1st | Carjacking; no firearm, deadly weapon, or other weapon. |
| 113 | 817.234(8)(a) | 2nd | Solicitation of motor vehicle accident victims with intent to defraud. |
| 114 | 817.234(9) | 2nd | Organizing, planning, or |

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| | | | participating in an intentional motor vehicle collision. |
| 115 | 817.234(11)(c) | 1st | Insurance fraud; property value \$100,000 or more. |
| 116 | 817.2341(2)(b) & (3)(b) | 1st | Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity. |
| 117 | 825.102(3)(b) | 2nd | Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement. |
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| 119 | 825.103(2)(b) | 2nd | Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000. |
| 120 | 827.03(3)(b) | 2nd | Neglect of a child causing great bodily harm, disability, or disfigurement. |
| 121 | 827.04(3) | 3rd | Impregnation of a child under 16 years of age by person 21 years of age or older. |
| 122 | 837.05(2) | 3rd | Giving false information about alleged capital felony to a law enforcement officer. |
| 123 | 838.015 | 2nd | Bribery. |

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| 124 | 838.016 | 2nd | Unlawful compensation or reward for official behavior. |
| 125 | 838.021(3)(a) | 2nd | Unlawful harm to a public servant. |
| 126 | 838.22 | 2nd | Bid tampering. |
| 127 | 872.06 | 2nd | Abuse of a dead human body. |
| | 893.13(1)(c)1. | 1st | Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational |

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| 128 | 893.13(1)(e)1. | 1st | facility or community center. |
| 129 | 893.13(4)(a) | 1st | Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site. |
| 130 | 893.135(1)(a)1. | 1st | Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs). Trafficking in cannabis, more than 25 lbs., less than |

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| 131 | | | 2,000 lbs. |
| | 893.135(1)(b)1.a. | 1st | Trafficking in cocaine, more than 28 grams, less than 200 grams. |
| 132 | | | |
| | 893.135(1)(c)1.a. | 1st | Trafficking in illegal drugs, more than 4 grams, less than 14 grams. |
| 133 | | | |
| | 893.135(1)(d)1. | 1st | Trafficking in phencyclidine, more than 28 grams, less than 200 grams. |
| 134 | | | |
| | 893.135(1)(e)1. | 1st | Trafficking in methaqualone, more than 200 grams, less than 5 kilograms. |
| 135 | | | |
| | 893.135(1)(f)1. | 1st | Trafficking in amphetamine, more than 14 grams, less than 28 grams. |
| 136 | | | |

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| 137 | 893.135(1)(g)1.a. | 1st | Trafficking in flunitrazepam, 4 grams or more, less than 14 grams. |
| 138 | 893.135(1)(h)1.a. | 1st | Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms. |
| 139 | 893.135(1)(j)1.a. | 1st | Trafficking in 1,4- Butanediol, 1 kilogram or more, less than 5 kilograms. |
| 140 | 893.135(1)(k)2.a. | 1st | Trafficking in Phenethylamines, 10 grams or more, less than 200 grams. |
| | 896.101(5)(a) | 3rd | Money laundering, financial transactions exceeding \$300 but |

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| 141 | | | less than \$20,000. |
| | 896.104(4)(a)1. | 3rd | Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000. |
| 142 | | | |
| 143 | | | (h) LEVEL 8 |
| 144 | 316.193(3)(c)3.a. | 2nd | DUI manslaughter. |
| | 316.1935(4)(b) | 1st | Aggravated fleeing or attempted eluding with serious bodily injury or death. |
| 145 | | | |
| | 327.35(3)(c)3. | 2nd | Vessel BUI manslaughter. |
| 146 | | | |
| | 499.0051(7) | 1st | Forgery of prescription or legend drug labels. |
| 147 | | | |

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| 148 | 499.0052 | 1st | Trafficking in contraband legend drugs. |
| 149 | 560.123(8)(b)2. | 2nd | Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter. |
| 150 | 560.125(5)(b) | 2nd | Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000. |
| | 655.50(10)(b)2. | 2nd | Failure to report financial transactions totaling or exceeding \$20,000, but less than |

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| 151 | | | \$100,000 by financial institutions. |
| | 777.03(2)(a) | 1st | Accessory after the fact, capital felony. |
| 152 | | | |
| | 782.04(4) | 2nd | Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb. |
| 153 | | | |
| | 782.051(2) | 1st | Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. |

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| 154 | | | 782.04(3). |
| | 782.071(1)(b) | 1st | Committing vehicular homicide and failing to render aid or give information. |
| 155 | | | |
| | 782.072(2) | 1st | Committing vessel homicide and failing to render aid or give information. |
| 156 | | | |
| | 790.161(3) | 1st | Discharging a destructive device which results in bodily harm or property damage. |
| 157 | | | |
| | 794.011(5) | 2nd | Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury. |
| 158 | | | |
| | 800.04(4) | 2nd | Lewd or lascivious |

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| 159 | | | battery. |
| | 806.01(1) | 1st | Maliciously damage dwelling or structure by fire or explosive, believing person in structure. |
| 160 | | | |
| | 810.02(2)(a) | 1st,PBL | Burglary with assault or battery. |
| 161 | | | |
| | 810.02(2)(b) | 1st,PBL | Burglary; armed with explosives or dangerous weapon. |
| 162 | | | |
| | 810.02(2)(c) | 1st | Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage. |
| 163 | | | |
| | <u>810.02(5)(a)</u> | <u>1st</u> | <u>Burglary of a dwelling during time of a declared state of emergency.</u> |
| 164 | | | |

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| 165 | 812.014(2)(a)2. | 1st | Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree. |
| 166 | 812.13(2)(b) | 1st | Robbery with a weapon. |
| 167 | 812.135(2)(c) | 1st | Home-invasion robbery, no firearm, deadly weapon, or other weapon. |
| 168 | 817.568(6) | 2nd | Fraudulent use of personal identification information of an individual under the age of 18. |
| 169 | 825.102(2) | 2nd | Aggravated abuse of an elderly person or disabled adult. |
| | 825.1025(2) | 2nd | Lewd or lascivious battery upon an |

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| 170 | | | elderly person or disabled adult. |
| | 825.103(2)(a) | 1st | Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more. |
| 171 | | | |
| | 837.02(2) | 2nd | Perjury in official proceedings relating to prosecution of a capital felony. |
| 172 | | | |
| | 837.021(2) | 2nd | Making contradictory statements in official proceedings relating to prosecution of a capital felony. |
| 173 | | | |
| | 860.121(2)(c) | 1st | Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm. |
| 174 | | | |

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| 175 | 860.16 | 1st | Aircraft piracy. |
| 176 | 893.13(1)(b) | 1st | Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b). |
| 177 | 893.13(2)(b) | 1st | Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b). |
| 178 | 893.13(6)(c) | 1st | Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b). |
| 179 | 893.135(1)(a)2. | 1st | Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs. |
| | 893.135(1)(b)1.b. | 1st | Trafficking in cocaine, more than |

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| | | | 200 grams, less than 400 grams. |
| 180 | 893.135(1)(c)1.b. | 1st | Trafficking in illegal drugs, more than 14 grams, less than 28 grams. |
| 181 | 893.135(1)(d)1.b. | 1st | Trafficking in phencyclidine, more than 200 grams, less than 400 grams. |
| 182 | 893.135(1)(e)1.b. | 1st | Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms. |
| 183 | 893.135(1)(f)1.b. | 1st | Trafficking in amphetamine, more than 28 grams, less than 200 grams. |
| 184 | 893.135(1)(g)1.b. | 1st | Trafficking in flunitrazepam, 14 grams or more, less |

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| 185 | | | than 28 grams. |
| | 893.135(1)(h)1.b. | 1st | Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms. |
| 186 | | | |
| | 893.135(1)(j)1.b. | 1st | Trafficking in 1,4- Butanediol, 5 kilograms or more, less than 10 kilograms. |
| 187 | | | |
| | 893.135(1)(k)2.b. | 1st | Trafficking in Phenethylamines, 200 grams or more, less than 400 grams. |
| 188 | | | |
| | 895.03(1) | 1st | Use or invest proceeds derived from pattern of racketeering activity. |
| 189 | | | |
| | 895.03(2) | 1st | Acquire or maintain |

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| | | | through racketeering activity any interest in or control of any enterprise or real property. |
| 190 | 895.03(3) | 1st | Conduct or participate in any enterprise through pattern of racketeering activity. |
| 191 | 896.101(5)(b) | 2nd | Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000. |
| 192 | 896.104(4)(a)2. | 2nd | Structuring transactions to evade reporting or registration requirements, |

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financial
transactions
totaling or
exceeding \$20,000
but less than
\$100,000.

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Section 3. This act shall take effect July 1, 2005.